

21 C.J.S. Courts § 25

Corpus Juris Secundum | May 2023 Update

Courts

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II. Jurisdiction of Courts

C. Jurisdiction of Subject Matter or Cause of Action

2. Amount in Controversy Within Subject Matter Jurisdiction

a. General Considerations

§ 25. Set-off or counterclaim affecting amount in controversy for subject matter jurisdiction

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Courts](#)  121(7), 169(5)

A set-off, counterclaim, or cross action generally must meet jurisdictional amount limitations independently of the original claim but cannot reduce or increase the amount involved so as to oust the court of jurisdiction of the plaintiff's claim.

A counterclaim is within the court's subject matter jurisdiction only when the amount in controversy is within the maximum allowed in that court¹ whether the counterclaim is permissive² or compulsory.³ In some jurisdictions, however, certain courts which have acquired jurisdiction of an action have the power to try and render judgment on any counterclaim even though the judgment demanded against the plaintiff is in excess of the jurisdiction of the court.⁴ A rationale employed is that the original plaintiff should not be permitted to race to the courthouse in order

to file a lesser claim first and thereby limit the amount of damages that a defendant may recover through its counterclaim.⁵

While a counterclaim in excess of the court's jurisdiction may have the effect of pleading the counterclaimant out of court,⁶ it does not oust the court's jurisdiction as to the plaintiff by adding the amount to the plaintiff's claim,⁷ nor does it have the jurisdictional effect of reducing the plaintiff's recovery below the minimum jurisdictional amount.⁸

Once a court has jurisdiction over an initial complaint and a counterclaim, a subsequent dismissal of the initial complaint will not divest the court of jurisdiction over the counterclaim even though the counterclaim itself does not meet the jurisdictional amount of the court.⁹

The court's proper assumption of jurisdiction over a declaratory judgment action as to which jurisdiction amount limitations do not apply permits the court to retain jurisdiction over a counterclaim for damages in excess of the otherwise applicable jurisdiction limits of the court.¹⁰

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Footnotes

- 1 La.—*A Fuselier Bonding Service, Inc. v. Perez*, 62 So. 3d 296 (La. Ct. App. 3d Cir. 2011).
N.C.—*4U Homes & Sales, Inc. v. McCoy*, 235 N.C. App. 427, 762 S.E.2d 308 (2014).
N.Y.—*Bloom & Krup Appliance Corp. v. A.H.C. Appliance Corp.*, 1 Misc. 3d 901(A), 781 N.Y.S.2d 622 (Dist. Ct. 2003).
Tex.—*In re King*, 478 S.W.3d 930 (Tex. App. Dallas 2015).
A.L.R. Library
Counterclaim or the like as affecting appellate jurisdictional amount, 58 A.L.R.2d 84.
- 2 Fla.—*Beach Park Development Corp. v. Remhof*, 673 So. 2d 912 (Fla. 2d DCA 1996).
Tex.—*Weinberger v. Longer*, 222 S.W.3d 557 (Tex. App. Houston 14th Dist. 2007).
- 3 Tex.—*In re King*, 478 S.W.3d 930 (Tex. App. Dallas 2015).
- 4 Mass.—*Hobbs Automotive, Inc. v. Dorsey*, 914 So. 2d 148 (Miss. 2005).
- 5 Ill.—*Board of Trustees of Rend Lake Conservancy Dist. v. City of Sesser*, 355 Ill. Dec. 554, 959 N.E.2d 1287 (App. Ct. 5th Dist. 2011).
- 6 Tex.—*Color Tile, Inc. v. Ramsey*, 905 S.W.2d 620 (Tex. App. Houston 14th Dist. 1995).
- 7 Tex.—*Our Fair Lady Health Resort v. Miller*, 564 S.W.2d 410 (Tex. Civ. App. Austin 1978).
- 8 Iowa—*Electra Ad Sign Co., Inc. v. Cedar Rapids Truck Center*, 316 N.W.2d 876 (Iowa 1982).

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Fla.—Gordon v. Goodrich, 347 So. 2d 715 (Fla. 3d DCA 1977).

N.Y.—Bloom & Krup Appliance Corp. v. A.H.C. Appliance Corp., 1 Misc. 3d 901(A), 781 N.Y.S.2d 622 (Dist. Ct. 2003).

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Mo.—Tolbert v. Automotive Finance Corp., 341 S.W.3d 195, 88 A.L.R.6th 761 (Mo. Ct. App. W.D. 2011).

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